## Chapter 8D CONSTRUCTION: FINANCING OF PUBLIC FACILITIES [[1]](#BK_82B85CB43955BE69FCAC37382FFF1749)

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Sec. 8D-1. Definitions.

As used in this chapter, the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

(a) *Board.* The word "Board" shall mean the Board of County Commissioners of the County.

(b) *Project.* The word "project" shall mean and shall include any one (1) or any combination of the following: airports; bridges, tunnels, viaducts, causeways; aquariums, oceanariums, marine laboratories; auditoriums; bathing beaches; hospitals, homes for aged and infirm; juvenile homes; reservations for water supply; roads; courthouses; ice plants, precooling and cold storage plants and warehouses; harbors, channels, jetties, breakwaters, public landings, wharves, docks, warehouses; and other improvements for harbors and shipping facilities; and shall include all property, rights, easements and franchises relating to any such project and deemed necessary or convenient for the operation thereof.

(c) *Cost.* The word "cost" shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and for one (1) year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized. Any obligation or expense heretofore or hereafter incurred by the County in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the County out of the proceeds of bonds issued under the provisions of this chapter.

(d) *Revenue bonds.* The term "revenue bonds" shall mean special obligations of the County which are payable solely from revenues.

(e) *General obligation bonds.* The term "general obligation bonds" shall mean general obligations of the County which are payable from unlimited ad valorem taxes or from such taxes and additionally secured by a pledge of revenues.

(f) *Bonds.* The word "bonds" shall include both revenue bonds and general obligation bonds.

(Ch. 22960, § 1, Laws 1945; Ch. 27088, § 1, Laws 1951; Ord. No. 78-27, § 2, 4-4-78)

Sec. 8D-2. Purpose.

This chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

(Ch. 22960, § 11, Laws 1945)

Sec. 8D-3. Powers of Board generally.

The Board of County Commissioners of Dade County is hereby authorized and empowered:

(1) To construct, and to improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a project financed under the provisions of this chapter;

(2) To issue either revenue bonds or general obligation bonds of the County to pay all or a part of the cost of such construction or reconstruction;

(3) To fix and collect rates, fees, rentals, tolls and other charges for the services and facilities furnished by any such project;

(4) To acquire in the name of the County, either by purchase or the exercise of the right of eminent domain, such lands and rights and interests therein, including lands under water and riparian rights, and to acquire such personal property as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any project or projects, and to hold and dispose of all real and personal property under its control;

(5) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, and to employ such consulting and other engineers, superintendents, managers, construction and accounting experts and attorneys, and such other employees and agents as may, in the judgment of the Board, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this chapter;

(6) To enter on any lands, water or premises located within the County to make surveys, borings, soundings or examinations for the purposes of this chapter;

(7) To exercise jurisdiction, control and supervision over any project or projects owned, operated or maintained by the County and to make and enforce such rules and regulations for the maintenance and operation of any such project or projects as may, in the judgment of the Board, be necessary or desirable for the efficient operation of any such project or projects and for accomplishing the purposes of this chapter;

(8) Subject to such provisions and restrictions as may be set forth in the resolution or trust agreement hereinafter mentioned authorizing or securing any bonds issued under the provisions of this chapter, to enter into contracts with the government of the United States or any agency or instrumentality thereof, or with any corporation, copartnership, association or individual providing for or relating to the operation of any such project;

(9) To award any contract for the construction of any project or any part thereof upon any day at least fifteen (15) days after one (1) publication of the notice requesting bids upon such contract in a newspaper of general circulation in the County;

(10) To receive and accept from any federal agency grants for or in aid of the planning, construction, reconstruction or financing of any project or projects, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(11) To lease any aquarium, oceanarium or marine laboratory, or any combination of the same, to any established college or university in the State of Florida without the necessity of advertising or competitive bidding and upon such terms and conditions as the Board may see fit, and to do all acts and things necessary or convenient to carry out the powers expressly given in this chapter;

(12) To operate or let unto others or contract with others for the operation of concessions in connection with any project or any combination of projects, of the kind and character usually operated in connection with any such project, including, but not limited to, restaurants, lunch stands, refreshment stands, beverage stands, camera and camera equipment shops, souvenir shops and curio shops, and to purchase for and sell thereat goods, supplies, foods, beverages and other articles of personal property usually sold at such shops and stands, without advertising for bids, sales, rentals, leases or operating agreements and without including any estimates of receipts therefrom or expenditures therefor in any budget; provided, however, that any exclusive concession shall be granted or leased in the manner provided by State law, as amended from time to time. The highest and best bid shall be accepted unless all bids are rejected. The Board may make purchases and sales as herein provided through any employee or employees of the County without official action to such Board other than a general grant of authority to such employee or employees. The Board may pledge any revenues realized as the result of the exercise of the powers granted in this paragraph to the payment of principal and interest of any bonds issued pursuant to this chapter.

All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor, out of funds provided by this chapter.

The State of Florida hereby consents to the use of all State lands lying under water which are necessary for the accomplishment of the purposes of this chapter.

(Ch. 22960, § 2, Laws 1945; Ch. 27088, § 2, Laws 1951; Ch. 30433, § 1, Laws 1955; Ord. No. 78-27, § 2, 4-4-78; Ord. No. 81-83, § 1, 7-7-81)

Sec. 8D-4. Issuance of bonds—Generally.

The Board is hereby authorized to provide, by resolution or ordinance, at one (1) time or from time to time, for the issuance of either revenue bonds or general obligation bonds of the County for the purpose of paying all or a part of the cost of any one (1) or more projects as hereinabove defined. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty (40) years from their date or dates, all as may be determined by the Board, and may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the bonds. In fixing the interest rate which such bonds shall bear, there shall be no interest rate limitation. The Board shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have, and are hereby declared to have, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and the Board may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be in the best interests of the County. Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this chapter without regard to any limitation or restriction contained in any other law and without obtaining the consent of any commission, board, bureau or agency of the State, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this chapter.

The proceeds of such bonds shall be used solely for the payment of the cost of the project or projects for the construction or reconstruction of which such bonds shall have been authorized, and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the authorizing resolution or in the trust agreement securing such bonds. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the authorizing resolution or in the trust agreement, shall be deemed to be of the same issue and shall be entitled to payment from the same fund, without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds shall have been issued, the surplus shall be paid into the fund provided under the provisions of this chapter for the payment of the principal of and the interest of such bonds.

(Ch. 22960, § 3, Laws 1945; Ch. 27088, § 3, Laws 1951; Ord. No. 78-27, § 2, 4-4-78; Ord. No. 80-45, § 1, 6-3-80)

Sec. 8D-5. Same—General obligation bonds.

No general obligation bonds shall be issued by the County unless the issuance of such bonds shall have been approved by a majority of the votes cast in an election in which a majority of the qualified electors residing in the County shall participate. Such elections shall be called, noticed and conducted and the result thereof determined and declared in the manner required by law for the issuance of bonds of the County.

For the payment of the principal of and the interest on any general obligation bonds of the County issued under the provisions of this chapter, the Board is hereby authorized and required to levy annually a special tax upon all taxable property within the County, over and above all other taxes authorized or limited by law, sufficient to pay such principal and interest as the same respectively become due and payable, and the proceeds of all such taxes shall when collected be paid into a special fund and used for no other purpose than the payment of such principal and interest; provided, however, that there may be pledged to the payment of such principal and interest the revenues of the project or projects, and in the event of such pledge the amount of the annual tax levy herein required may be reduced in any year by the amount of such revenues actually received in the preceding year and then remaining on deposit to the credit of the special fund for the payment of such principal and interest.

(Ch. 22960, § 4, Laws 1945; Ord. No. 78-27, § 2, 4-4-78)

**Cross reference—** General obligation bonds, Ch. 16.

Sec. 8D-6. Same—Revenue bonds.

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a pledge of the faith and credit of the County, but such bonds shall be payable solely from the funds provided therefor under the provisions of this chapter. All such bonds shall contain a statement on their face substantially to the effect that the County is not obligated to pay such bonds or the interest thereon except from such funds and that the faith and credit of the County are not pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the County or levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged under the provisions of this chapter.

In the discretion of the Board, any issue of revenue bonds may be secured by a trust agreement by and between the County and a corporate trustee, which may be any trust company within or outside of the State. The resolution authorizing the issuance of the revenue bonds or such trust agreement shall pledge the revenues to be received, but shall not convey or mortgage any project or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the County and of the Board in relation to the construction, reconstruction, improvement, maintenance, operation, repair and insurance of the project or projects, and provisions for the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction or operation. Such resolution or trust agreement may set forth the rights and remedies of the bondholders, and may restrict the individual right of action by the bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition to the foregoing, such resolution or trust agreement may contain such other provisions as the Board may deem reasonable and proper for the security of bondholders. Except as in this chapter otherwise provided, the Board may provide for the payment of the proceeds of the sale of the bonds and the revenues of the project or projects to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

The resolution or trust agreement providing for the issuance of revenue bonds may also contain such limitations upon the issuance of additional revenue bonds as the Board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

No revenue bonds shall be issued under the authority of this chapter, unless the Board shall have theretofore found and determined:

(1) The estimated cost of the project or projects on account of which such bonds are to be issued;

(2) The estimated annual revenues of such project or projects; and

(3) The estimated annual cost of maintaining, repairing and operating such project or projects;

nor unless it shall appear from such estimates that the annual revenues will be sufficient to pay such cost of maintenance, repair and operation and the interest on such bonds and the principal thereof as such interest and principal shall become due.

(Ch. 22960, § 5, Laws 1945; Ord. No. 78-27, § 2, 4-4-78)

Sec. 8D-7. Application of revenues generally.

The resolution authorizing the issuance of revenue bonds under the provisions of this chapter, or the trust agreement securing such bonds, shall provide that all of the revenues derived from the project on account of which such revenue bonds may be issued, except such part thereof as may be required to pay the cost of maintaining, repairing and operating such project and to provide reserves therefor, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement and deposited for the credit of the following separate funds for the following purposes:

(1) A sinking fund for the payment of the interest on and the principal of such revenue bonds as the same shall become due, necessary charges of paying agents for paying such interest and principal, and any premium upon bonds retired by call or purchase before their maturity or respective maturities, including the accumulation of a reserve for such purpose; and

(2) A fund for anticipated renewals and replacements and extraordinary repairs.

The use and disposition of moneys to the credit of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing such bonds, and except as may otherwise be provided in such resolution or trust agreement, such sinking fund shall be a fund for the benefit of all such bonds, without distinction or priority of one (1) over another.

(Ch. 22960, § 7, Laws 1945; Ord. No. 78-27, § 2, 4-4-78)

Sec. 8D-8. Fees and charges for services, use of facilities.

The Board shall fix and revise from time to time rates, fees, rentals, tolls or other charges for the services and facilities furnished by any project financed under the provisions of this chapter, and shall charge and collect the same. Such rates, fees, rentals, tolls or other charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times:

(1) To pay the cost of maintaining, repairing and operating the project or projects, and to provide reserves therefor and for replacements and depreciation and necessary extensions and enlargements;

(2) To pay the principal of and the interest on all outstanding revenue bonds as the same shall become due and provide reserves therefor; and

(3) To provide a margin of safety for making such payments and providing such reserves.

Such rates, fees, rentals, tolls or other charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the State or of any political subdivision of the State.

(Ch. 22960, § 6, Laws 1945; Ord. No. 78-27, § 2, 4-4-78)

Sec. 8D-9. Moneys received deemed to be trust funds.

All moneys received pursuant to the authority of this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The resolution authorizing the issuance of revenue bonds, or the trust agreement securing such bonds, shall provide that any officer to whom, or any banks, trust company or other fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and such resolution or trust agreement may provide.

(Ch. 22960, § 8, Laws 1945; Ord. No. 78-27, § 2, 4-4-78)

Sec. 8D-10. Revenue bonds to refund outstanding bonds; refunding of seaport revenue bonds.

The Board, for and on behalf of the County, is authorized to provide from time to time for the issuance of revenue bonds of the County to provide funds for the purpose of refunding any or all outstanding seaport revenue bonds of the County or for the combined purpose of so refunding and paying the cost of acquisition, construction, reconstruction, improvement, extension or enlargement of a project. Any such refunding may be effected by the County using the proceeds of its revenue bonds, together with any other available moneys, to purchase obligations of the federal government, the principal of and the interest on which when due will provide sufficient moneys to pay the principal, interest and redemption premium, if any, on the outstanding bonds to be refunded as the same become due, whether at their respective maturities or upon the date or dates selected for their redemption prior to maturity, and any associated expenses. For the purposes of this section, the Board, in its discretion, may elect in the proceedings authorizing such refunding bonds to redeem all the revenue bonds to be refunded on one (1) or more selected redemption dates or so to redeem same of bonds to be refunded and to allow the balance of the bonds to be refunded to mature in accordance with their original principal payment schedule or to allow all of the bonds to be refunded to mature in accordance with their original principal payment schedule; provided, that in any case the redemption and the payments at maturity, together with interest and any redemption premium, will be provided from the proceeds of the revenue bonds authorized by this section, investment earnings thereon and any other available moneys. In connection with any such refunding, the County may enter into contractual arrangements deemed necessary or desirable by the Board with banks or other fiduciaries as to the escrowing, investment and application of refunding revenue bond proceeds, revenues of the County's seaport and any other available funds.

The revenue bonds authorized by this section:

(1) May be secured by and payable from the revenues of the County's seaport and, in addition, by income derived from the investment of such revenues;

(2) May be sold in such manner and at such price as the Board shall determine; and

(3) May bear interest at a rate or rates as the Board shall determine, but in fixing the interest rate which such bonds shall bear, there shall be no interest rate limitation.

(Ch. 22960, § 10, Laws 1945; Ord. No. 78-27, §§ 1, 2, 4-4-78; Ord. No. 80-45, § 2, 6-3-80)

Sec. 8D-11. Remedies of holders of revenue bonds.

Any holder of revenue bonds issued under the provisions of this chapter or of any of the coupons appertaining thereto, and the trustee under any trust agreement securing such bonds, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or by such trust agreement, may, either at law or in equity, by suit, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State of Florida or granted hereunder or under such reso lution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the County or by the Board by any officer thereof, including the fixing, charging and collecting of rates, fees, rentals, tolls or other charges for the services and facilities furnished by any project.

(Ch. 22960, § 9, Laws 1945; Ord. No. 78-27, § 2, 4-4-78)

FOOTNOTE(S):

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**Editor's note—** Pursuant to Ord. No. 78-27, §§ 1, 2, adopted April 4, 1978, the provisions of Ch. 22960, §§ 1—11, Laws 1945, as amended, have been included as a chapter in this Code, said Ch. 22960, Laws 1945, having become an ordinance of the county pursuant to Ch. 71-29, § 3(2), Laws of Florida. Designation of said provisions as Ch. 8D, §§ 8D-1—8D-11, is at the discretion of the editor. [(Back)](#BK_FC9568F3667036322965E25D87FFA412)

**Cross reference—** Bidding on public projects, § 10-33 et seq.; general obligation bonds, Ch. 16; improvement districts, Ch. 18; public health trust, Ch. 25A; South Beach Redevelopment Trust Fund, § 30A-16 et seq. [(Back)](#BK_FC9568F3667036322965E25D87FFA412)